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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.				
10/812,193	03/29/2004	Gabor w. Orosz	GO-1-gw	2861				
7590 Michael I. Kroll 171 Stillwell Lane Syosset, NY 11791	06/01/2007		<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">FONSECA, JESSIE T</td></tr></table>		EXAMINER		FONSECA, JESSIE T	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/812,193	Applicant(s) OROSZ, GABOR W.	
	Examiner Jessie Fonseca	Art Unit 3637	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 March 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,6-9 and 12-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6-9 and 12-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Claims 1, 6- 9, and 12-14 have been examined.

#### ***Specification***

The amendment filed 3/19/07 is not accepted as errors still exist.

The disclosure is objected to because of the following informalities:

Paragraph 3 of page 21: Reference character 30 should be directed to the "floor" and reference character 20 should be directed to the "gaps" as seen on page 18 of the spec.

#### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "22" has been used to designate both user and threads (see fig. 2 and 4). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 6-9, and 12-14 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regards to claim 1: It's unclear how the horizontal platform comprises a plurality of flat members. The claim language is inconsistent with the spec., as each platform (12) is a flat member (as shown in fig. 5). Furthermore, it's improper to recite the "apertures" twice as seen in lines 11 and 18 of the claim.

With regards to claim 9: It's unclear how the horizontal platform comprises a plurality of flat members. The claim language is inconsistent with the spec., as each platform (12) is a flat member (as shown in fig. 5).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9 and 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Kitsee (US 800,655).

With regards to claim 9: Kitsee disclose a platform combination comprising:

- a horizontal floor surface (col. 3, lines 15-18).
- floor tiles (a, a') on a horizontal surface (col. 3, lines 15-19). The laying of floor tiles on the floor surface and having spaces therebetween for receiving grout is related to an intended use and is given little patentable weight;
- a horizontal platform (consisting of a plurality of flat members - B) (fig. 1, 2, and 4). The placement of the horizontal platform above and spaced from the tiles is related to an intended use and is given little patentable weight.
- the platform comprising a plurality of flat members (B) (see fig. 1).
- A plurality of pre-punched tabs (b') disposed on the member, a selected of the tabs (b') being bent downwardly and extending from the lower surfaces of the member (B) (fig. 2). The members enabling a user to walk on the platform without disturbing the tiles is related to an intended use and is given little patentable weight.

With regards to claim 12: Kitsee disclose the members (B) are rectangular shaped (fig. 1)

With regards to claim 13: Kitsee further discloses the tabs (b') are disposed on the corners of the rectangular shaped member (B) (fig. 1)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fahy, Jr. et al. (US 5,930,974) in view of Zielinski (US 5,930,974).

With regards to claim 1: Fahy Jr. et al. disclose a platform assembly (100) comprising:

- a horizontal floor surface (subfloor – col. 5, lines 7-11);
- a horizontal platform (100) (see fig. 1 and 2). The placement of the horizontal platform above and spaced from the tiles is related to an intended use and is given little patentable weight.
- the platform (100) comprising a plurality of flat members (16) each having a distributed pattern of spaced apertures (col. 6, lines 36-39).

- the apertures are threaded (col. 6, lines 36-39)
- a plurality of threaded, downwardly extending posts (screws) through selected apertures (col. 6, lines 36-39). It is widely known in the art that screws are threaded. *Screw: a metal piece resembling a nail with a helical or spiral groove that can be turned by screwdriver to fasten things together (Webster's II dictionary)*. The spaces whereby the bottoms ends of the posts rest for support on the floor surface between tiles is related to an intended use and is given little patentable weight.
- The flat members being distributed and spaced above the tiles a user can walk on the flat members while not disturbing the tiles and are easily removed allowing grouting to be applied to said spaces is related to an intended use and is given little patentable weight.

Fahy Jr. fails to disclose floor tiles on a horizontal floor surface. The laying of floor tiles on the floor surface and having spaces therebetween for receiving grout is related to an intended use and is given little patentable weight. However, Zielinski discloses floor tiles (A-I) on a horizontal surface (col.1, lines 47-53). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the assembly of Fahy Jr. to include floor tiles on horizontal floor in order to create a floor structure with increased aesthetics.

With regards to claim 6: Fahy Jr. et al., in view of Zielinski further disclose that each member (16) is rectangular shaped (fig. 2).

With regards to claim 7: Fahy Jr. et al., in view of Zielinski, further disclose the

posts (screws) are disposed on the corner of the rectangular shaped members (16) (col. 6, lines 36-39).

With regards to claim 8: Fahy Jr. et al., in view of Zielinski, further discloses a carpet tile being disposed on the upper surface the flat members (16) (col. 2, lines 58-59), where it is known in the art that carpet is inherently a non-slip material.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kitsee (US 800,655) in view of Jureit (US 3,365,221).

With regards to claim 14: Kitsee doesn't explicitly disclose a non-slip material being disposed on the upper surface of the members. However, Jureit teaches a metal plate capable of having a friction coating applied, so as to provide traction (col. 2, lines 12-19). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the flat member of Kitsee to have a friction coating on the upper surface of Kitsee, in order to prevent movement of the covering sections with the horizontal surface

Claims 1, 6-7, 9, and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zielinski (US 5,930,974).

With regards to claim 1: Zielinski discloses a tile protector platform assembly comprising:

- A horizontal floor surface (col.1, lines 47-53);



- Floor tiles (A-K) (fig. 3) capable of being laid on a floor surface, where the tiles have spaces therebetween for receiving grout;
- A horizontal platform (10) (fig. 3) capable of being above and space from the tiles.

Zielinski discloses a horizontal platform (10) being supported by a plurality of L-shaped members (2). The tile protector platform assembly of Zielinski is functionally equivalent to a platform having threaded apertures to receive a plurality of threaded, downwardly extending posts. The apertures are capable of being located above the spaces where located above the spaces whereby bottom ends of the posted rest for support on the floor surface between tiles. The flat members are capable of being distributed and spaced above the tiles where a user can walk on the flat member while not disturbing the tiles and are easily removed allowing grouting to be applied to the spaces.

Therefore, it would have been an obvious matter of design to have a platform with threaded apertures for receiving a plurality of threaded, downwardly extending posts in order to provide an tile protector platform assembly with components that are smaller in size for ease of transport.

With regards to claim 6: Zielinski further disclose each member (10) is rectangular shaped (fig. 3).

With regards to claim 7: As per the modification of claim 1, it would have been an obvious matter of design choice to have the posts disposed on the corners of the

rectangular shape members (10) so as to provide a distribution of forces to safely support the a user walking on the platform.

With regards to claim 9: Zielinski discloses a tile protector platform assembly comprising:

- A horizontal floor surface (col.1, lines 47-53);
- Floor tiles (A-K) (fig. 3) capable of being laid on a floor surface, where the tiles have spaces therebetween for receiving grout;
- A horizontal platform (10) (fig. 3) capable of being above and space form the files.

Zielinski discloses a horizontal platform (10) being supported by a plurality of L-shaped members (2). The tile protector platform assembly of Zielinski is functionally equivalent to a platform having a plurality of pre-punched tabs being disposed, where a select number of the tabs are bent downwardly so as to extend from the lower surface.. The tabs of the members are capable of resting on the floor surface between the tiles to enable a user to walk on the platform without disturbing the tiles.

Therefore, it would have been an obvious matter of design to have a platform with a plurality of pre-punched tabs being disposed, where a select number of the tabs are bent downwardly so as to extend from the lower surface components in order to provide a tile protector platform assembly with less components for ease of transport.

With regards to claim 6: Zielinski further disclose each member (10) is rectangular shaped (fig. 3).

With regards to claim 12: Zielinski further disclose each member (10) is rectangular shaped (fig. 3).

With regards to claim 13: As per the modification of claim 9, it would have been an obvious matter of design choice to have the posts disposed on the corners of the rectangular shape members (10) so as to provide a distribution of forces to safely support the a user walking on the platform.

Claim 8 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zielinski (US 5,930,974) in view of Jureit (US 3,365,221).

With regards to claim 8: Zielinski doesn't explicitly disclose a non-slip material being disposed on the upper surface of the members. However, Jureit teaches a metal plate capable of having a fiction coating applied, so as to provide traction (col. 2, lines 12-19). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the flat member of Kitsee to have a friction coating on the upper surface of Kitsee, in order to prevent movement of the covering sections with the horizontal surface.

With regards to claim 14: Zielinski doesn't explicitly disclose a non-slip material being disposed on the upper surface of the members. However, Jureit teaches a metal plate capable of having a fiction coating applied, so as to provide traction (col. 2, lines 12-19). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the flat member of Kitsee to have a friction coating on the

upper surface of Kitsee, in order to prevent movement of the covering sections with the horizontal surface/

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Spieselman et al. disclose sectional flooring (US 3,157,254).

Ruplen discloses an animal platform (US 4,147,129).

Gudmore et al. discloses a walway grid (US 4,596,731).

Yasuyoshi disclose laying tile-like flooring members on a floor (US 4,744,194).

MacLeod discloses cover for an area of ground (US 5,364,204).

Hiraguri discloses raised flooring (US 5,501,754).

Blatz discloses surface covering tile (US 5,616,389).

Valtanen discloses a protective structure (US 6,455,127).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessie Fonseca whose telephone number is (571)272-7195. The examiner can normally be reached on M-F 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571)272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JF JF  
5/25/07

LANNA MAI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3609

A handwritten signature in black ink, appearing to read "Lanna Mai", with a long horizontal stroke extending to the right.